

Resolution No.:	<u>16-1326</u>
Introduced:	<u>May 4, 2010</u>
Adopted:	<u>May 4, 2010</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Management and Fiscal Policy Committee

SUBJECT: Collective Bargaining Agreement with Fraternal Order of Police

Background

1. Section 510 of the County Charter requires the County Council to provide by law for collective bargaining with binding arbitration with an authorized representative of the County police officers.
2. Chapter 33, Article V of the County Code implements Section 510 of the Charter and provides for collective bargaining with representatives of certain police officers and for review of the resulting agreement by the County Council.
3. The County Executive and the Fraternal Order of Police (FOP) have agreed to extend their agreement scheduled to expire on June 30, 2010 until June 30, 2011 with amendments. Those amendments are attached to this Resolution.
4. The County Executive has submitted to the County Council the terms and conditions of the collective bargaining agreement that require or may require an appropriation of funds or changes in any County law or regulation.
5. The Management and Fiscal Policy Committee considered the agreement at worksessions on April 19 and April 29, 2010, and recommended rejection of certain provisions and approval of all other terms and conditions.
6. The County Council has considered these terms and conditions and is required by law to indicate on or before May 15 its intention regarding the appropriation of funds or any legislation or regulations required to implement the agreement.

Action

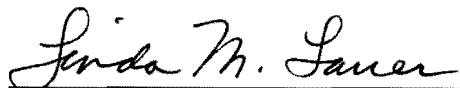
The County Council for Montgomery County, Maryland approves the following resolution:

The County Council intends to reject funding and disapprove the following amendments:

1. The continuation of the imputed General Wage Adjustment beyond the calculation of regular earnings for FY10. The Council intends to enact Expedited Bill 16-10 as introduced.
2. 3.5% service increments for bargaining unit members.
3. Creation of a new expert skill level for multi-lingual skill pay for bargaining unit members.
4. Additional compensation for bargaining unit members assigned to a Police Aviation Unit.
5. Tuition assistance for bargaining unit members.

The Council intends to approve the amendment to law that would change the 3-year term for the member of the Board of Investment Trustees designated by the FOP to an indefinite term of office until replaced by the FOP.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council

**MEMORANDUM OF AGREEMENT
BETWEEN
THE MONTGOMERY COUNTY GOVERNMENT
AND
FRATERNAL ORDER OF POLICE
MONTGOMERY COUNTY LODGE 35, INC.**

As a result of the arbitration award for the re-opener negotiations as set forth in Article 31(F) of the collective bargaining agreement, the parties amend the collective bargaining agreement as follows:

Article 5. Tech Pay

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Section C. Multilingual Pay Differential.

1. *Skill Levels.* The Parties agree to establish a pay differential for officers whose job requires the occasional use of multilingual skills or signing. Affected officers will be afforded an opportunity to qualify for the multilingual pay differential. **Basic Skills.**

Basic skills. are defined as those skills primarily required for signing or oral communication and comprehension such as those used in conversation with clients and citizens.

Advanced Multilingual Skills. Advanced skills are defined as those skills required for written communication and comprehension in a second language, in addition to skills in oral communication and comprehension.

Expert Multilingual Skills For Interrogations and Investigations. Mastery of both basic and advanced skills necessary for comprehensive use in interrogations, investigations and legal proceedings.

Test Administrators: Employees who are selected by the County to administer basic skills and advanced multilingual skills performance examinations.

* * *

3. *Compensation.* Compensation is determined by the officer's certified language skill level. Compensation is paid for all hours actually worked during the pay period. Officers certified at the basic skill level will receive one dollar per hour for all hours actually worked. Officers certified at the advanced skill level will receive two dollars per hour for all hours actually worked. **Officers certified at the expert skill level for interrogations and investigations will receive three dollars per hour for all hours actually worked.**

Certified officers will indicate on their time sheets the multilingual skill code ML1 for Basic Skill certification, and ML2 for Advanced Skill certification **and ML3 for Advanced skill for interrogations and investigations.**

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Article 17 Disability Leave and Injury on the Job

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Section E. Claim Form. ~~Whenever an injury on the job is reported, Employee Claim Form, WCC Form C1, Appendix E (or its successor) shall be attached to the departmental form (presently the Supervisors Incident Investigation Report form), and provided to the employee. Employees are not required to sign or attest to the SIIR form (or its successor).~~ Whenever an injury on the job is reported, a copy of this section shall be attached to the departmental form (currently the Supervisor's Incident Investigation Form), and then provided to the employee. Employees are not required to sign or attest to the SIIR form (or its successor).

Notice to Injured Employee

A report of injury to your supervisor or the Employer is not a claim for Workers' Compensation benefits or notice of injury to the Workers' Compensation Commission. The Workers' Compensation claim form, "WCC Form C-1" is required in order to submit your claim to the Commission and may be found at the Maryland Workers' Compensation Commission Website http://www.wcc.state.md.us/WFMS/C1_WebForms.html Please carefully follow all instructions provided on that site. [Delete Appendix E]

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Article 19 Sick Leave

Section A. Definition. Sick leave is earned, paid leave granted to eligible employees for periods of absence because of personal illness, injury, medical quarantine, medical, dental or optical examinations and treatments, or any temporary disability caused or contributed to by pregnancy, miscarriage or childbirth. An employee may also use sick leave for an illness, injury, medical quarantine, medical, dental or optical examinations and treatments in the immediate family, **including a domestic partner**, or for the purpose of attending to the immediate family at the time of birth or adoption of a child, provided the time used is not for a period more than the amount of sick leave earned in any calendar year. This amount of sick leave limitation does not apply to sick leave taken pursuant to Article 16 *Parental Leave* of this Agreement.

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Article 21 Compensatory Time

Section A. Limitations on Accrual of Compensatory Time. A bargaining unit employee who has a compensatory time balance in excess of 80 hours at the end of the leave year may elect to be paid for the excess hours by the first pay period following March 15 of the succeeding year or to carry them over for one year. **During Fiscal Year 2011, the County at its option may limit the cash out of excess hours to employees with a compensatory leave balance in excess of 120 hours at the end of the leave year.** The carry-over of excess compensatory time must be reduced by no later than December 31 of the succeeding leave year. Unused compensatory time granted to implement a furlough shall be added to the member's compensatory leave balance at the end of the furlough period and treated as above.

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Article 24 Insurance Coverage and Premiums

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Section T. Life Insurance

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2. Term Life Insurance. In the event of a bargaining unit employee's death in the line of duty, the designated beneficiary, beneficiaries or estate must receive the following lump sum payments:

- a. Immediate advance payment of \$25,000 from the basic term life benefit toward funeral and family living expenses.
- b. The basic benefit of term life and accidental death and dismemberment insurance payable for a bargaining unit member whose death is the direct result of an accidental bodily injury sustained in the performance of County employment will be \$500,000, or the amount payable under the schedule of such benefits in effect under current practice, whichever is greater, less any advance paid under subsection 2.a.

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Article 36 Wages

Section A. Wages. Effective July 1, 2007, the salary schedule shall be increased by adding \$3,151 at Step 0, Year 1 with increments and promotions for all other steps and pay grades calculated from the new Step 0, Year 1 basis. Increments and longevity shall continue to be calculated as required by Article 28. The percentage increases upon promotion shall continue (up to the maximum for each rank) to be: 5% between PO I and PO II; 5% PO II and PO III; 5% between PO III and MPO; 10% between MPO and Sergeant; and, subject to Section D, *infra*, 5% between POC and POI. The four and one-quarter (4.25) percent wage increase scheduled to take effect in the first full pay period following July 1, 2009 shall be postponed, and shall not be effective during fiscal years 2010 and 2011. Salary based benefits shall not be diminished as a result of the postponement, and such benefits will be calculated as if the postponed wage increase had been received as scheduled.

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Section F. Lateral Entry

1. **Eligibility.** There is created a lateral entry program that authorizes a within grade appointment salary incentive for those Police Officer Candidate applicants who have eligible prior police/law enforcement experience provided the applicant meets the below listed program criteria. This agreement ensures that all current bargaining unit members who would have qualified for this program will be compensated accordingly.

To be considered for eligibility, existing bargaining unit members must have been employed by the Montgomery County Department of Police no earlier than April 11, 1994, and must have been a salaried employee, within one (1) or more of the following listed categories of public safety/police/law enforcement agencies, excluding Special Police Officers (SPOs), with powers of arrest and the lawful authority to carry a firearm during the course of his/her official duties and employment:

- a. A Federal police/law enforcement agency
- b. A State/U.S. Territory police/law enforcement agency
- c. A County police/law enforcement agency

- d. A City police/law enforcement agency
 - e. A University/college police/law enforcement agency
 - f. A Military police unit/detachment
 - g. A State or County Sheriff's Department [Does not include those employed exclusively within the arena of corrections or detention]
2. *Compensation for Current Bargaining Unit Members.* The formula for providing the special within-grade advancement for eligible bargaining unit members will be based on one additional 3.5 percent step for each year of qualifying experience, up to a maximum of 5 years of qualifying experience (5 steps).
The calculation for the special within grade salary advancement for a current eligible bargaining unit member will be based on the employee's length of eligible prior police/law enforcement experience, his/her actual employment date with the Montgomery County Department of Police, and the effective date of this agreement. Computations for the special salary adjustment for current bargaining unit employees will include the period of April 11, 1994 through April 11, 1999, with April 11, 1999 being the designated effective date of this agreement.
Increment steps to recognize prior qualifying experience will only be awarded in 3.5 percent increments. Partial years of qualifying service will be rounded up or down for purposes of compensation (service) credit.

The number of annual increment step adjustments received since April 11, 1994 by an eligible bargaining unit employee, will be deducted from the total number of special step adjustments the employee would have received had this program been in effect at the time of his/her appointment.
All salary adjustments are effective April 11, 1999. There will be no retroactive pay or benefit for any period of time or experience prior to the designated program effective date.

This program does not provide for the lateral transfer of rank, rights, or seniority.
3. *Responsibility for program administration.* The Police Personnel Division will be responsible for the administration of the lateral entry program.

The Police Personnel Division will identify all current bargaining unit members that have been employed since April 11, 1994, in order to determine eligibility for a special salary adjustment based on qualifying prior police/law enforcement experience.

The Police Personnel Division will be responsible for computing and submitting all required documentation for the initiation of the special salary adjustment for all eligible bargaining unit members.

The Police Personnel Division will provide the FOP and all current eligible bargaining unit members with a copy of the compensation tracking form (Form 85A-See Attached) utilized for the compensation calculation.
4. ~~*Effective Date.* This section became effective [on] April 11, 1999 and expires on June 30, 2001, unless in its sole discretion, the Employer extends it.~~
Notwithstanding the provisions of Section F, for employees hired during Fiscal Year 2011, the County at its option may suspend in Fiscal Year 2011 only, the requirement that within-grade advancement will be based on one additional 3.5 percent step for each year of qualifying experience.

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Article 47 Duration of Contract

This agreement shall become effective on July 1, ~~2007~~ 2009, and terminate on June 30, 2011.

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Article 57 Retirement

Provide that, subject to County Council confirmation, the county executive must appoint to the Board of Investment Trustees one voting representative designated by the employee organization certified pursuant to County Code Chapter 33, Article V. This designee must serve indefinitely while remaining the designee of the certified employee representative.

This provision replaces the existing provision providing for a police bargaining unit representative to the Board of Investment Trustees.

The existing restriction on voting in matters involving the County's deferred compensation plan shall remain in effect.

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Article 59 FMLA

Section A. Integration of Contract Benefits and Conditions with Family Medical Leave Act. The parties agree that FMLA benefits and benefits provided by this Agreement will be integrated in accordance with the following principles:

1. The inclusion of Family Medical Leave in the Agreement will not expand or diminish other leave benefits, unless specifically required by FMLA.
2. Paid leave as provided under the Agreement, unless otherwise provided by law, will also count as FMLA leave if the purpose of such leave is within the definition of FMLA leave.
3. When on leave for an FMLA purpose, an employee will not be required to use any paid leave balance before using leave without pay.
4. The County shall provide all benefits mandated by FMLA.
5. **For purposes of this Article, an eligible domestic partner shall be considered the same as a spouse.**

Section B. Definitions.

1. *Family and Medical Leave.* Family and medical leave is paid or unpaid leave granted to eligible employees for the purposes stated in the federal Family and Medical Leave Act of 1993.
2. *Eligible Employee.* An eligible employee is an employee who has been employed by the county for a total of twelve (12) months and who has been in a work status for at least 1040

hours in the preceding twelve (12) months. An eligible employee must be allowed to use twelve (12) workweeks per leave year or any combination of annual leave, sick leave, disability leave, parental leave, and leave without pay for any one or more of the following reasons:

3. To care for the employee's newborn or newly adopted child or to care for a foster child newly placed with the employee;
 - a. To obtain prenatal care for the employee or to arrange for the adoption or foster care placement of a child with the employee;
 - b. To care for, or arrange care for, any of the following with a serious health condition: The employee's spouse, **domestic partner**, minor child, adult child incapable of self care, or parent;
 - c. Because of the employee's serious health condition that makes the employee unable to perform the functions of the employee's position.
4. *Leave year.* The leave year begins with the first full payroll period of a calendar year and ends with the payroll period in which December 31st falls.
5. *Workweek.* For FMLA purposes, a workweek consists of the average number of hours which the employee works in a week.
6. *Restricted Duty.* An employee on disability leave that is designated as FMLA cannot be required to take a restricted duty work assignment until the employee has exhausted all FMLA leave.

Section C. Integration Provisions.

1. Use of FMLA leave.

- a. Leave taken to care for the employee's newborn child or child newly placed for adoption or foster care:
 - (1) Shall be taken within 12 months of the birth, adoption, or foster care placement of the child;
 - (2) May be used on a continuing basis or, with the approval of the employee's supervisor, may be used on an intermittent or reduced workweek basis;
 - (3) At the employee's option, may be paid leave of the appropriate type, or unpaid leave, or any combination of the two;
 - (4) Shall be unpaid leave if the employee has exhausted all appropriate paid leave;
 - (5) Is subject to a 30-day advance notice period;
 - (6) Will not qualify as parental leave under Article 16 *Parental Leave* of this Agreement if the leave is taken to care for a newly placed foster child, or if the employee has exhausted the 720 hours of parental leave provided per 24-month period under Article 16.
- b. FMLA leave which does not qualify as parental leave under Article 16 *Parental Leave* of this Agreement may not include sick leave beyond the limitations stated in Article 19 *Sick Leave §A Definition*.
- c. FMLA leave taken for medical purposes to care for, or arrange care for, a serious health condition of the employee's spouse, **domestic partner**, minor child, adult child incapable of self care, or parent or because of the employee's serious health condition that makes the employee unable to perform the functions of the employee's position:

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NEW Article 69 Flight Officers

Section A. Compensation. Unit members assigned to the Aviation Unit or who perform as pilots, co-pilots, flight officer or observer duties aboard aircraft owned, operated or funded by, or under the control of the County or any County agency, shall be compensated as provided in this Article.

1. All compensation and benefits as provided under this agreement, and
2. A pay differential for all hours worked regardless of flight status:
 - a. Pilot and Co-Pilot - \$3500 per year.
 - b. Observers and Flight Officers - \$1500 per year.

Section B. Benefits. Unit members, regardless of assignment, who die as a result of or in connection with an incident involving any aircraft owned, operated or funded by, or under the control of the County or any County agency, shall not be excluded from, or their beneficiaries or estate denied any County provided benefit or insurance payment from the term life insurance benefits provided at the County's expense.

Section C. Impact of flight differentials on other Compensation and Benefits. For purposes of pay and benefits, the differentials created by this Article shall be treated as other differentials under this Agreement; however, these differentials shall be factored into overtime only for use of the skill during hours worked in excess of the regular workday or workweek.

Section D. Limitations. The terms and conditions of this Article shall become effective upon the parties reaching a final agreement on all other aviation unit mandatory subjects of bargaining and the initiation of flight operations by the unit.

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IN WITNESS WHEREOF, the parties hereto have caused their names to be subscribed hereto by their duly authorized officers and representatives, this ____ day of March, 2010.

Fraternal Order of Police, Lodge 35, Inc.	Montgomery County Government Montgomery County, Maryland
By: <u>Walter E. Bader</u> Walter E. Bader Chief Negotiator <u>Marc B. Zifcak</u> Marc B. Zifcak President	By: <u>Isiah Leggett</u> Isiah Leggett County Executive
<u>[Signature]</u> Approved for Form and Legality County Attorney	